

Office of Chief Counsel
Internal Revenue Service

memorandum

CC:NER:PEN:PHI:TL-N-5376-98
DABreen

date:

to: Francis J. Koneski, Case Manager, Group 1804
Pennsylvania District, King of Prussia Post of Duty

from: Assistant District Counsel, Pennsylvania District, Philadelphia

subject: Impact of Boise-Cascade v. United States
U.S.D.C. Idaho, 82 A.F.T.R. 2d (RIA) 7249 (1998)

This memorandum is in response to an inquiry from Team Coordinator Rennie Petrie as to the impact of the above district court opinion on the issue of a corporation deducting dividend payments associated with an ESOP. Mr. Petrie has identified this issue in the [REDACTED] examination..

We have consulted our National Office. They have advised us that field personnel should continue to raise the issue of disallowing dividend deductions by corporations under the Boise-Cascade fact pattern. Accordingly, Mr. Petrie should propose the adjustment in his case.

This concludes our advice and recommendation. Please feel free to call Senior Attorney David A. Breen at 215-597-3442 with any additional questions you may have. We are forwarding a copy of this advice to the Assistant Regional Counsel (Tax Litigation) (CC:NER) and to the Office of Assistant Chief Counsel (Field Service) (CC:DOM:FS) for mandatory ten day post review. To assure that National Office has sufficient time to review our advice, we request that you refrain from taking any action with respect to this issue prior to November 22, 1999.

JOSEPH M. ABELE
Assistant District Counsel

cc via email:
ARC(TL)NER (Corrado)
Assistant Chief Counsel (Field Service)